

1. The United States Bankruptcy Court for the Southern District of New York (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, and Article XIV, Section 14.1(h) of the Plan. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding under

Jurisdiction

Joseph Waske in response to the Plan Administrator's Objection to Motion for Summary Judgment states as follows:

TO THE HONORABLE SHEILEY C. CHAPMAN,  
UNITED STATES BANKRUPTCY JUDGE:

RESPONSE TO PLAN ADMINISTRATOR'S OBJECTION TO MOTION FOR SUMMARY

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

Joseph Waske,  
vs.  
Lehman Brothers Holdings Inc.,  
et al.,  
Debtors.  
Case No.: 08-13555 (SCC)  
(Jointly Administered)  
Docket #60448

Joseph Waske  
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12 of the Federal Rules for Civil Procedures. served. That is 8 days more than the 21 days allowed by Rule is 29 days after the Motion to Reserve (Docket #60448) was for Summary Judgement (Docket # 60484), on February 19<sup>th</sup>, which 5. The Plan Administrator was served with the Motion enforce the motion for Summary Judgement. to respond. Joseph Waske respectfully requests the court to Administrator should not be given a free pass for the failure held accountable for the failed actions. The Plan respond to the Motion to Reserve (Docket # 60448) and should be 4. The Plan Administrator missed the opportunity to timeframe to respond to the Motion to Reserve (Docket #60484). 3. The Plan Administrator is fully aware of the (Docket #60484). 12(a)(1)(A) I as stated in the Motion for Summary Judgement. the Federal Rules for Civil Procedures Pursuant to Rule 2. The Plan Administrator is in clear violation of

Response

(the "Bankruptcy Code"). title 11 of the United States Code, 11 U.S.C. §§ 101-1532 requested in this motion are sections 105(a) and 1141 of 28 U.S.C. §§ 157(b). The statutory bases for the relief

stock payments.

wrote specifically to not allow any LBHI subsidiary parity rights and the contractual prospectus covenants that LBHI V, VI Preferred Securities "Affiliate" senior equity parity plain contract language regarding the Capital Trust III, IV, Waske's motion to reserve does not respond or acknowledge the 10. The Plan Administrator's objection to Joseph and backed by evidence going forward.

9. Or any of Joseph Waske's filed Motions in detail the Motion for Summary Judgment.

8. It is the Plan Administrator's duty and burden to explain to the court how any Rulings or Orders raised apply to relevant to this Motion for Summary Judgment.

8. The Plan Administrator mentions another ruling and attempts to tie that proceeding to these motions. The Plan Administrator fails to provide what that ruling was or an order that was handed down, in detail, and how that is relevant to this Motion for Summary Judgment.

7. The Plan Administrator decided not to set aside a reserve on March 24<sup>th</sup>, 2020 with the response to the Motion to Reserve. That is nine days before LBHI's 12th distribution on April 2<sup>nd</sup>, 2020.

6. The Plan Administrator filed the Objection to the Motion to Reserve on March 24<sup>th</sup>, 2020 which was four days after the Motion for Summary Judgment was filed on March 20<sup>th</sup>, 2020.

11. Determining if the Plan Administrator is required to reserve for any motion is for the Honorable Court to decide.

Statement

12. Joseph Waske requested from the Honorable Court a hearing on the Motion for Summary Judgment only. Joseph Waske petitioned the Honorable Court to remove the Motion to Reserve (Docket #60448) (Exhibit A) from the hearing. The Honorable Court denied that request.

13. By adding the Motion to Reserve to the Hearing Date on June 3<sup>rd</sup>, 2020, that placed Joseph Waske in an unfair position because it gives the Plan Administrator a free pass argument for the failure to respond, even when procedures were followed by Joseph Waske.

14. The Motion to Reserve is based on the fact that the Plan Administrator and LBHI made a classification error and the Plan Administrator has not factually addressed the Affiliate senior equity parity and the payment stoppage covenants granted to the Capital Trust III, IV, V, VI preferred security holders. That is unjust if it is intentional.

16. Joseph Waske reserves all his rights and reserves the right to conduct discovery as to the Plan Administrators fillings and any matters related thereto and to supplement this and other fillings as a result thereof.

#### RESERVATION OF RIGHTS

For all the reasons set forth herein and in the Motion, Joseph Waske respectfully requests that the Court grant the relief requested in the Motion, and grant such other relief as is just.

15. The Plan Administrator did violate Rule 12 of the Federal Rules for Civil Procedures. Joseph Waske asks the court to grant the Motion for Summary Judgement based on the Plan Administrator's violation of that rule. The Plan Administrator should not be given special privilege. Joseph Waske asks the court to consider that he did not request the court to add the Motion to Reserve to the Hearing on June 3<sup>rd</sup>, 2020 and specifically requested the court respectfully grant this Motion for Summary Judgement.

#### Conclusion

Joseph Waske  
22862 Via Genoa  
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Respectfully Submitted,  
Dated this 18th day of May, 2020

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/s/ Shelley C. Chapman  
UNITED STATES BANKRUPTCY JUDGE

Date: April 14, 2020

REQUEST DENIED. Hearing shall  
proceed as noticed per Docket 60498.

Joseph Waske

Respectfully and sincerely,

Thank you for your consideration.

I request that the Honorable Court set the hearing as per my original request to only include docket # 60484, Motion for Summary Judgment and exclude docket #60448, Motion to Reserve. The Motion for Summary Judgment should be given priority given the Plan Administrator did not comply with Federal Rules of Civil Procedures Pursuant to Rule 12(a)(1)(A)(i).

Additionally, within the "Notice of Hearing," responses for both motions are due by May 18<sup>th</sup>, 2020. The Plan Administrator failed to respond to the Motion to Reserve within the period of time of 21 days as per Federal Rules of Civil Procedures Pursuant to Rule 12(a)(1)(A)(i). The Plan Administrator was served on February 19<sup>th</sup>, 2020 (details on docket #60484) and responded to the Motion to Reserve on March 24<sup>th</sup>, 2020 which is 34 days from the date of service. The Plan Administrator should not be given the opportunity to respond to the Motion to Reserve because of the failure to act. Allowing the Plan Administrator to respond to the Motion to Reserve would trump the Motion for Summary Judgment and put my arguments at a disadvantage because it would equate to giving the Plan Administrator a free pass.

I am writing you this electronic letter in regards to the "Notice of Hearing" with the date set for June 3<sup>rd</sup>, 2020 at 10am, docket #60498. My request was for a hearing regarding docket #60484 only, which is the Motion for Summary Judgment. When the Notice of Hearing was issued, docket #60448 "Motion to Reserve" is now included.

Dear Honorable Judge Chapman,

From: Joseph waske <jwaske3@yahoo.com>  
Sent: Thursday, April 9, 2020 6:34 PM  
To: NYSBMID\_CaseFiling <CaseFiling@nysb.uscourts.gov>  
Subject: RE: Notice of Hearing Docket #60498 Consideration Case 08-13555 Lehman Brothers Holdings Inc.

Exhibit A

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Exhibit A

TOTAL: 1

Recipients submitted to the BNC (Bankruptcy Noticing Center):  
unk Joseph Waske 22862 Via Genoa Dana Point, CA 92629

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Recipients Pg 1 of 1  
Notice Recipients

District/Off: 0208-1 User: Date Created: 4/14/2020  
Case: 08-13555-scc Form ID: pdf001 Total: 1